



## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 220711-0151]

RIN 0648-BL12

#### **Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustment 63**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** This action approves and implements Framework Adjustment 63 to the Northeast Multispecies Fishery Management Plan. This rule sets or adjusts catch limits for 5 of the 20 multispecies (groundfish) stocks, adjusts recreational measures for Georges Bank cod, and revises the default specifications process. This action is necessary to respond to updated scientific information and to achieve the goals and objectives of the fishery management plan. The final measures are intended to help prevent overfishing, rebuild overfished stocks, achieve optimum yield, and ensure that management measures are based on the best scientific information available.

**DATES:** Effective [*INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER*].

**ADDRESSES:** Copies of Framework Adjustment 63, including the draft Environmental Assessment, the Regulatory Impact Review, and the Regulatory Flexibility Act Analysis prepared by the New England Fishery Management Council in support of this action, are available from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. The supporting documents

are also accessible via the Internet at: <http://www.nefmc.org/management-plans/northeast-multispecies> or <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Liz Sullivan, Fishery Policy Analyst, phone: 978-282-8493; e-mail: [Liz.Sullivan@noaa.gov](mailto:Liz.Sullivan@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

**Summary of Approved Measures**

The New England Fishery Management Council adopted Framework Adjustment 63 to the Northeast Multispecies Fishery Management Plan (FMP) on December 8, 2021. The Council submitted Framework 63, including an EA, for NMFS approval on March 28, 2022. We published a proposed rule for Framework 63 on April 20, 2022 (87 FR 23482), with a 15-day comment period that closed on May 5, 2022.

Under the Magnuson-Stevens Act, we approve, disapprove, or partially approve measures that the Council proposes, based on consistency with the Act and other applicable law. We review proposed regulations for consistency with the fishery management plan, plan amendment, the Magnuson-Stevens Act and other applicable law, and publish the proposed regulations, solicit public comment, and promulgate the final regulations. We have approved all of the measures in Framework 63 recommended by the Council, as described below. The measures implemented in this final rule:

- Set shared U.S./Canada quotas for Georges Bank (GB) yellowtail flounder and eastern GB cod and haddock for fishing years 2022 and 2023;
- Set specifications, including catch limits, for five groundfish stocks: Gulf of Maine (GOM) cod (2022-2024), GB yellowtail flounder (2022-2023), and GB cod, GB haddock, and white hake (2022);
- Adjust recreational measures for GB cod;

- Modify the regulatory process for the Regional Administrator to adjust recreational measures for GB cod to apply to the 2023 and 2024 fishing years, and;
- Modify the current process for default specifications.

This action also makes regulatory corrections that are not part of Framework 63, but that are implemented under our section 305(d) authority in the Magnuson-Stevens Act to make changes necessary to carry out the FMP. We are making these corrections in conjunction with the Framework 63 measures for expediency purposes. These corrections are described in **Regulatory Corrections under Secretarial Authority**.

### **Fishing Years 2022 and 2023 Shared U.S./Canada Quotas**

#### *Management of Transboundary Georges Bank Stocks*

As described in the proposed rule, eastern GB cod, eastern GB haddock, and GB yellowtail flounder are jointly managed with Canada under the United States/Canada Resource Sharing Understanding. This action adopts shared U.S./Canada quotas for these stocks for fishing year 2022 based on 2021 assessments and the recommendations of the Transboundary Management Guidance Committee (TMGC) and consistent with the Council's Scientific and Statistical Committee (SSC) recommendations. Framework 63 sets the same shared quotas for a second year (*i.e.*, for fishing year 2023) as placeholders, with the expectation that those quotas will be reviewed annually and new recommendations will be received from the TMGC. The 2022 and 2023 shared U.S./Canada quotas, and each country's allocation, are listed in Table 1.

**Table 1 -- 2022 and 2023 Fishing Years U.S./Canada Quotas (mt, live weight) and Percent of Quota Allocated to Each Country**

Quota	Eastern GB Cod	Eastern GB Haddock	GB Yellowtail Flounder
Total Shared Quota	571	14,100	200

U.S. Quota	160 (28 percent)	6,627 (47 percent)	122 (61 percent)
Canadian Quota	411 (72 percent)	7,473 (53 percent)	78 (39 percent)

The regulations implementing the U.S./Canada Resource Sharing Understanding require deducting any overages of the U.S. quota for eastern GB cod, eastern GB haddock, or GB yellowtail flounder from the U.S. quota in the following fishing year. Based on preliminary data through April 27, 2022, the U.S. fishery did not exceed its 2021 fishing year quota for any of the shared stocks. However, if final catch information for the 2021 fishing year indicates that the U.S. fishery exceeded its quota for any of the shared stocks, we will reduce the respective U.S. quotas for the 2022 fishing year in an adjustment action, as soon as possible in the 2022 fishing year. If any fishery that is allocated a portion of the U.S. quota exceeds its allocation and causes an overage of the overall U.S. quota, the overage reduction would be applied only to that fishery's allocation in the following fishing year. This ensures that catch by one component of the overall fishery does not negatively affect another component of the overall fishery.

### **Catch Limits for Fishing Years 2022-2024**

#### *Summary of the Catch Limits*

This rule adopts catch limits for GOM cod for the 2022-2024 fishing years and for GB cod for the 2022 fishing year, based on stock assessments completed in 2021; a catch limit for white hake for fishing year 2022, based on the revised rebuilding plan implemented by Framework 61; and a catch limit for GB yellowtail flounder for fishing years 2022-2023. Framework 59 (85 FR 45794; July 30, 2020) previously set 2022 quotas for seven groundfish stocks based on assessments conducted in 2019, which would remain in place, with a small change to the U.S. ABC for GB haddock, which is the amount available to the U.S. fishery after accounting for Canadian catch, to reflect the 2022 TMGC recommendation for that stock. Framework 61 (86 FR 40353; July 28,

2021) previously set 2022-2023 quotas for the remaining nine groundfish stocks based on assessments conducted in 2020, and those would also remain in place. The catch limits implemented in this action, including overfishing limits (OFL), acceptable biological catches (ABC), and annual catch limits (ACL), are listed in Tables 2 through 10. A summary of how these catch limits were developed, including the distribution to the various fishery components, was provided in the proposed rule and in Appendix II (Calculation of Northeast Multispecies Annual Catch Limits, FY 2022 – FY 2024) to the EA, and is not repeated here. The sector and common pool sub-ACLs implemented in this action are based on fishing year 2022 potential sector contributions (PSC) and final fishing year 2022 sector rosters.

**Table 2 -- Fishing Years 2022-2024 Overfishing Limits and Acceptable Biological Catches (mt, live weight)**

Stock	2022		Percent change from 2021	2023		2024	
	OFL	U.S. ABC		OFL	U.S. ABC	OFL	U.S. ABC
GB Cod	UNK	343	-73.78	-	-	-	-
GOM Cod	724	551	0	853	551	980	551
GB Haddock	114,925	81,383	-2	-	-	-	-
GOM Haddock	14,834	11,526	-31	-	-	-	-
GB Yellowtail Flounder	UNK	122	53	UNK	122	-	-
SNE/MA Yellowtail Flounder	184	22	0	-	-	-	-
CC/GOM Yellowtail Flounder	1,116	823	0	-	-	-	-
American Plaice	3,687	2,825	-2	-	-	-	-
Witch Flounder	UNK	1,483	0	-	-	-	-
GB Winter Flounder	974	608	0	1,431	608	-	-
GOM Winter Flounder	662	497	0	662	497	-	-
SNE/MA Winter Flounder	1,438	456	0	1,438	456	-	-
Redfish	13,354	10,062	-1	13,229	9,967	-	-
White Hake	3,022	2,116	-1	-	-	-	-
Pollock	21,744	16,812	-24	-	-	-	-
N. Windowpane Flounder	UNK	160	0	UNK	160	-	-

S. Windowpane Flounder	513	384	0	513	384	-	-
Ocean Pout	125	87	0	125	87	-	-
Atlantic Halibut	UNK	101	0	UNK	101	-	-
Atlantic Wolffish	122	92	0	122	92	-	-

UNK = Unknown

*Note:* An empty cell indicates no OFL/ABC is adopted for that year. These catch limits would be set in a future action.

**Table 3 -- Catch Limits for the 2022 Fishing Year (mt, live weight)**

Stock	Total ACL	Groundfish sub-ACL	Sector sub-ACL	Common Pool sub-ACL	Recreational sub-ACL	Midwater Trawl Fishery	Scallop Fishery	Small-Mesh Fisheries	State Waters sub-component	Other sub-component
	A to H	A+B+C	A	B	C	D	E	F	G	H
GB Cod	330	244	238	6					11	75
GOM Cod	522	462	261	8.8	192				48	12
GB Haddock	77,302	75,382	74,375	1,007		1,514			0	406
GOM Haddock	10,873	10,690	6,915	141	3,634	107			38	38
GB Yellowtail Flounder	118	97	94	3.0			19	2.3	0.0	0.0
SNE/MA Yellowtail Flounder	21	16	12	3.4			2.0		0.2	3.3
CC/GOM Yellowtail Flounder	787	692	661	31					58	37
American Plaice	2,687	2,630	2,566	64					28	28
Witch Flounder	1,414	1,317	1,277	40					44	52
GB Winter Flounder	591	563	551	12					0	27
GOM Winter Flounder	482	281	259	22					194	7.5
SNE/MA Winter Flounder	441	288	250	38					21	132
Redfish	9,559	9,559	9,459	100					0	0
White Hake	2,011	1,990	1,970	20					11	11
Pollock	16,068	14,135	14,020	115					1,093	841
N. Windowpane Flounder	150	108	na	108			31		0.8	10
S. Windowpane Flounder	371	43	na	43			129		23	177
Ocean Pout	83	50	na	50					0	33
Atlantic Halibut	97	73	na	73					20	3.5
Atlantic Wolffish	86	86	na	86					0	0

na: not allocated to sectors

**Table 4 -- Catch Limits for the 2023 Fishing Year\* (mt, live weight)**

Stock	Total ACL	Groundfish sub-ACL	Sector sub-ACL	Common Pool sub-ACL	Recreational sub-ACL	Midwater Trawl Fishery	Scallop Fishery	Small-Mesh Fisheries	State Waters sub-component	Other sub-component
	A to H	A+B+C	A	B	C	D	E	F	G	H
GOM Cod	522	462	261	8.8	192				48	12
GB Yellowtail Flounder	118	97	94	3.0			19	2.3	0	0
GB Winter Flounder	591	563	551	12					0	27
GOM Winter Flounder	482	281	259	22					194	7.5
SNE/MA Winter Flounder	441	288	250	38					21	132
Redfish	9,469	9,469	9,370	99					0	0
N. Windowpane Flounder	150	108	na	108			31		0.8	10
S. Windowpane Flounder	371	43	na	43			129		23	177
Ocean Pout	83	50	na	50					0	33
Atlantic Halibut	97	73	na	73					20	3.5
Atlantic Wolffish	86	86	na	86					0	0

na: not allocated to sectors

\* All other Northeast multispecies stocks not included in Table 4 do not have catch limits approved beyond fishing year 2022.

**Table 5 -- Catch Limits for the 2024 Fishing Year\* (mt, live weight)**

Stock	Total ACL	Groundfish sub-ACL	Sector sub-ACL	Common Pool sub-ACL	Recreational sub-ACL	Midwater Trawl Fishery	Scallop Fishery	Small-Mesh Fisheries	State Waters sub-component	Other sub-component
	A to H	A+B+C	A	B	C	D	E	F	G	H
GOM Cod	522	462	261	9	192				48	12

\* Framework 63 sets a fishing year 2024 catch limit for GOM cod only.



**Table 6 -- Fishing Years 2022-2024 Common Pool Trimester TACs (mt, live weight)**

Stock	2022			2023			2024		
	Trimester 1	Trimester 2	Trimester 3	Trimester 1	Trimester 2	Trimester 3	Trimester 1	Trimester 2	Trimester 3
GB Cod	1.8	2.1	2.4						
GOM Cod	4.3	2.9	1.6	4.3	2.9	1.6	4.3	2.9	1.6
GB Haddock	271.8	332.3	402.7						
GOM Haddock	38.0	36.6	66.2						
GB Yellowtail Flounder	0.6	0.9	1.5	0.6	0.9	1.5			
SNE/MA Yellowtail Flounder	0.7	1.0	1.7						
CC/GOM Yellowtail Flounder	17.8	8.1	5.3						
American Plaice	47.3	5.1	11.5						
Witch Flounder	21.9	8.0	10.0						
GB Winter Flounder	1.0	2.9	8.2	1.0	2.9	8.2			
GOM Winter Flounder	8.0	8.2	5.4	8.0	8.2	5.4			
Redfish	24.9	30.9	43.8	24.7	30.6	43.4			
White Hake	7.6	6.2	6.2						
Pollock	32.1	40.1	42.4						

**Table 7 -- Common Pool Incidental Catch TACs for the 2022-2024 Fishing Years (mt, live weight)**

Stock	Percentage of Common Pool sub- ACL	2022	2023	2024
GB Cod	1.68	0.11		
GOM Cod	1	0.09	0.09	0.09
GB Yellowtail Flounder	2	0.06	0.06	
CC/GOM Yellowtail Flounder	1	0.31		
American Plaice	5	3.20		
Witch Flounder	5	1.99		
SNE/MA Winter Flounder	1	0.38	0.38	

**Table 8 -- Percentage of Incidental Catch TACs Distributed to Each Special Management Program**

Stock	Regular B DAS Program (percent)	Eastern U.S./CA Haddock SAP (percent)
GB Cod	60	40
GOM Cod	100	n/a
GB Yellowtail Flounder	50	50
CC/GOM Yellowtail Flounder	100	n/a
American Plaice	100	n/a
Witch Flounder	100	n/a
SNE/MA Winter Flounder	100	n/a

**Table 9 -- Fishing Years 2022-2024 Incidental Catch TACs for Each Special Management Program (mt, live weight)**

Stock	Regular B DAS Program			Eastern U.S./Canada Haddock SAP		
	2022	2023	2024	2022	2023	2024
GB Cod	0.06			0.04		
GOM Cod	0.09	0.09	0.09	n/a	n/a	n/a
GB Yellowtail Flounder	0.03	0.03		0.03	0.03	
CC/GOM Yellowtail Flounder	0.31			n/a	n/a	n/a
American Plaice	3.20			n/a	n/a	n/a
Witch Flounder	1.99			n/a	n/a	n/a
SNE/MA Winter Flounder	0.38	0.38		n/a	n/a	n/a

**Table 10 -- Fishing Years 2022-2024 Regular B DAS Program Quarterly Incidental Catch TACs (mt, live weight)**

Stock	2022				2023				2024			
	1st Quarter (13 percent)	2nd Quarter (29 percent)	3rd Quarter (29 percent)	4th Quarter (29 percent)	1st Quarter (13 percent)	2nd Quarter (29 percent)	3rd Quarter (29 percent )	4th Quarter (29 percent)	1st Quarter (13 percent)	2nd Quarter (29 percent)	3rd Quarter (29 percent)	4th Quarter (29 percent)
GB Cod	0.01	0.02	0.02	0.02								
GOM Cod	0.01	0.03	0.03	0.03	0.01	0.03	0.03	0.03	0.01	0.03	0.03	0.03
GB Yellowtail Flounder	0.004	0.009	0.009	0.009	0.00	0.01	0.01	0.01				
CC/GOM Yellowtail Flounder	0.04	0.09	0.09	0.09								
American Plaice	0.42	0.93	0.93	0.93								
Witch Flounder	0.26	0.58	0.58	0.58								
SNE/MA Winter Flounder	0.05	0.11	0.11	0.11	0.05	0.11	0.11	0.11				

### *Sector Annual Catch Entitlements (ACE)*

At the start of the 2022 fishing year, we allocated stocks to each sector, based on the catch limits set by prior frameworks. This rule updates the ACE allocated to sectors based on the catch limits approved in Framework 63, fishing year 2022 PSC, and final fishing year 2022 sector rosters. We calculate a sector's allocation for each stock by summing its members' PSC for the stock and then multiplying that total percentage by the commercial sub-ACL for that stock. The process for allocating ACE to sectors is further described in the final rule allocating ACE to sectors for fishing year 2022 (87 FR 24875; April 27, 2022) and is not repeated here. Table 11 shows the cumulative PSC by stock for each sector for fishing year 2022. Tables 12 and 13 show the ACEs allocated to each sector for fishing year 2022, in pounds and metric tons, respectively. We have included the common pool sub-ACLs in tables 11 through 13 for comparison.

**Table 11 -- Cumulative PSC (percentage) each sector is receiving by stock for fishing year 2022**

Sector Name	MRI Count	GB Cod	GOM Cod	GB Haddock	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
Fixed Gear Sector	64	11.57437434	0.70089617	1.55519582	0.18102677	0.01097362	0.19081548	1.71017673	0.50290396	1.09923355	0.02017438	8.03466759	0.99095592	0.53639676	1.04444409	3.10432913
Maine Coast Community Sector	108	2.15981094	15.96272261	3.05040299	12.26623521	1.65881234	2.43176803	6.42304059	15.55482796	12.32711923	0.75080575	7.96502545	1.83038959	8.91076473	13.77820055	12.62891583
Maine Permit Bank	11	0.13420443	1.15723293	0.04447830	1.12476158	0.01383913	0.03193513	0.31910182	1.16557943	0.72761271	0.00021871	0.42712661	0.01808815	0.82192224	1.65450461	1.69560998
Mooncusser Sector	48	12.01246812	6.23497319	3.84352772	3.68933703	1.22858724	0.85891785	3.02327800	0.85900641	1.81413333	0.95225711	2.85065686	2.47136026	4.74544471	10.66355140	10.53173805
NEFS 2	113	6.42201775	23.91782213	10.59877827	20.60072774	1.63512775	1.23146092	22.74413334	9.56948964	12.91933231	3.21922867	21.70754111	4.09675919	14.90208675	8.16040158	13.76997503
NEFS 4	58	7.43563310	11.16605718	5.83717898	8.87641414	2.17153621	2.27336558	6.41190111	9.52747738	8.86565245	0.69751694	7.43888383	1.00213039	6.67306380	8.27041162	6.86770790
NEFS 5	20	0.47560552	0.32230808	0.81001507	0.11416047	1.26971817	17.64422540	0.95098526	0.43624697	0.61815715	0.43005854	0.84495369	10.42838830	0.01835670	0.09207645	0.04502427
NEFS 6	23	3.12782423	2.92650355	3.59851426	4.39743319	3.31836153	5.13539140	4.19995133	4.55719164	6.01292714	1.73420349	4.75759934	1.92732147	6.81096482	4.52319801	3.66608439
NEFS 7	8	0.46511153	0.02295198	0.39870508	0.01682869	1.30597646	1.04216498	0.05141221	0.25101541	0.25426560	0.30404575	0.05435503	0.19115862	0.15784343	0.07885382	0.18131273
NEFS 8	53	10.13299723	2.49983686	9.79484471	5.66831751	22.77507456	7.59008019	6.97195047	7.82492823	6.62788366	30.20976493	3.97159976	10.28725145	5.67756224	4.75673535	4.17257288
NEFS 10	30	0.53019689	2.61458523	0.17733240	1.32984406	0.00115364	0.56810314	4.45627686	1.21947025	2.12396902	0.01090896	9.43507929	0.61343625	0.33681854	0.65808782	0.77242016
NEFS 11	42	0.39805525	11.34830591	0.03480859	2.78497443	0.00149043	0.00955308	2.28711030	1.56460487	1.55723626	0.00308144	2.00460513	0.02143804	1.87817602	4.30447165	8.77105183
NEFS 12	21	0.63215855	3.12919672	0.09407804	1.08979160	0.00043163	0.03437315	8.61359448	0.79827496	0.62437747	0.00044212	10.30223232	0.26160710	0.22794467	0.29619013	0.77836927
NEFS 13	69	12.54290661	0.64374598	21.32289563	0.90390551	36.46192362	24.12518771	6.45002441	8.56341139	9.05151733	19.52786616	1.78331523	17.60715282	4.39852834	2.22895185	2.68258729
New Hampshire Permit Bank	4	0.00082581	1.14746151	0.00003417	0.03235447	0.00002035	0.00001795	0.02188704	0.02851462	0.00616587	0.00000326	0.06077592	0.00003670	0.01940283	0.08137015	0.11138837
Sustainable Harvest Sector 1	41	7.37399596	4.75721282	9.58374023	13.21279184	5.57672392	1.93185297	4.91323377	13.86812558	12.08322143	11.57749726	3.37733183	5.81877850	13.83149559	16.57067620	10.19928896
Sustainable Harvest Sector 2	28	5.06336818	1.50908222	2.14763455	1.43830630	5.11110904	4.57576219	5.67509896	2.50453932	2.24113631	8.73243092	4.19271236	8.46085022	1.11393369	1.66621635	1.45140966
Sustainable Harvest Sector 3	59	16.93732864	6.67798255	25.77220574	20.27554749	14.34082650	8.34577346	10.26110959	18.77191045	18.02199479	19.68751795	3.10984537	20.76120966	27.89687122	20.16078203	17.75892150
<b>Common Pool</b>	487	2.58111692	3.26112237	1.33562945	1.99724198	3.11831389	21.97925140	4.51573373	2.43248153	3.02406440	2.14197767	7.68169328	13.21168739	1.04242293	1.01087634	0.81129276
<b>Sector Total</b>	800	97.42	96.74	98.66	98.00	96.88	78.02	95.48	97.57	96.98	97.86	92.32	86.79	98.96	98.99	99.19

**Table 12 -- ACE (in 1,000 lb), by stock, for each sector for fishing year 2022 #^**

Sector Name	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
Fixed Gear Sector	41	21	4	227	2,357	28	0	0	26	29	32	0	50	6	113	46	967
Maine Coast Community Sector	8	4	95	446	4,624	1,908	4	1	98	902	358	9	49	12	1,878	605	3,935

Maine Permit Bank	0	0	7	6	67	175	0	0	5	68	21	0	3	0	173	73	528
Mooncusser Sector	42	22	37	562	5,826	574	3	0	46	50	53	12	18	16	1,000	468	3,282
NEFS 2	23	12	142	1,548	16,065	3,205	3	0	347	555	375	40	134	26	3,140	358	4,291
NEFS 4	26	14	66	853	8,848	1,381	5	1	98	552	257	9	46	6	1,406	363	2,140
NEFS 5	2	1	2	118	1,228	18	3	6	15	25	18	5	5	66	4	4	14
NEFS 6	11	6	17	526	5,455	684	7	2	64	264	175	22	29	12	1,435	198	1,142
NEFS 7	2	1	0	58	604	3	3	0	1	15	7	4	0	1	33	3	57
NEFS 8	36	19	15	1,431	14,847	882	49	3	106	454	192	375	25	65	1,196	209	1,300
NEFS 10	2	1	16	26	269	207	0	0	68	71	62	0	58	4	71	29	241
NEFS 11	1	1	68	5	53	433	0	0	35	91	45	0	12	0	396	189	2,733
NEFS 12	2	1	19	14	143	170	0	0	131	46	18	0	64	2	48	13	243
NEFS 13	44	23	4	3,115	32,321	141	78	8	98	497	263	242	11	112	927	98	836
New Hampshire Permit Bank	0	0	7	0	0	5	0	0	0	2	0	0	0	0	4	4	35
Sustainable Harvest Sector 1	26	14	28	1,400	14,527	2,055	12	1	75	804	351	144	21	37	2,915	727	3,178
Sustainable Harvest Sector 2	18	9	9	314	3,255	224	11	2	87	145	65	108	26	54	235	73	452
Sustainable Harvest Sector 3	60	31	40	3,765	39,065	3,154	31	3	157	1,088	523	244	19	132	5,879	885	5,534
<b>Common Pool</b>	9	5	19	195	2,025	311	7	8	69	141	88	27	48	84	220	44	253
<b>Sector Total</b>	343	181	576	14,415	149,554	15,245	207	27	1,457	5,657	2,816	1,215	572	551	20,854	4,343	30,909

# Numbers are rounded to the nearest thousand pounds. In some cases, this table shows an allocation of 0, but that sector may be allocated a small amount of that stock in tens or hundreds pounds.

^ The data in the table represent the total allocations to each sector.

**Table 13 -- ACE (in metric tons), by stock, for each sector for fishing year 2022 #^**

Sector Name	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
Fixed Gear Sector	19	10	2	103	1,069	13	0	0	12	13	14	0	23	3	51	21	439
Maine Coast Community Sector	3	2	43	202	2,097	865	2	0	44	409	162	4	22	5	852	274	1,785
Maine Permit Bank	0	0	3	3	31	79	0	0	2	31	10	0	1	0	79	33	240
Moonecusser Sector	19	10	17	255	2,643	260	1	0	21	23	24	5	8	7	454	212	1,489
NEFS 2	10	5	65	702	7,287	1,454	2	0	157	252	170	18	61	12	1,424	162	1,946
NEFS 4	12	6	30	387	4,013	626	2	0	44	251	117	4	21	3	638	165	971
NEFS 5	1	0	1	54	557	8	1	3	7	11	8	2	2	30	2	2	6
NEFS 6	5	3	8	238	2,474	310	3	1	29	120	79	10	13	6	651	90	518
NEFS 7	1	0	0	26	274	1	1	0	0	7	3	2	0	1	15	2	26
NEFS 8	16	9	7	649	6,734	400	22	1	48	206	87	170	11	30	543	95	590
NEFS 10	1	0	7	12	122	94	0	0	31	32	28	0	27	2	32	13	109
NEFS 11	1	0	31	2	24	197	0	0	16	41	21	0	6	0	180	86	1,240
NEFS 12	1	1	8	6	65	77	0	0	60	21	8	0	29	1	22	6	110
NEFS 13	20	11	2	1,413	14,661	64	35	4	45	225	119	110	5	51	420	44	379
New Hampshire Permit Bank	0	0	3	0	0	2	0	0	0	1	0	0	0	0	2	2	16
Sustainable Harvest Sector 1	12	6	13	635	6,589	932	5	0	34	365	159	65	9	17	1,322	330	1,442
Sustainable Harvest Sector 2	8	4	4	142	1,477	101	5	1	39	66	30	49	12	24	106	33	205
Sustainable Harvest Sector 3	27	14	18	1,708	17,720	1,431	14	1	71	494	237	111	9	60	2,667	401	2,510
<b>Common Pool</b>	4	2	9	89	918	141	3	3	31	64	40	12	22	38	100	20	115
<b>Sector Total</b>	156	82	261	6,538	67,837	6,915	94	12	661	2,566	1,277	551	259	250	9,459	1,970	14,020

# Numbers are rounded to the nearest metric ton, but allocations are made in pounds. In some cases, this table shows a sector allocation of 0 metric tons, but that sector may be allocated a small amount of that stock in pounds.

^ The data in the table represent the total allocations to each sector.

## **Recreational Fishery Measures**

This action sets the GB cod recreational catch target to 75 mt. The values of the state and other sub-components for GB cod are based, in part, on this catch target (see Appendix II of the EA).

Framework 63 also adjusts the recreational measures for GB cod, in order to reduce mortality to stay below the GB cod recreational catch target. Combined with the reduction in catch target, these measures are intended to reduce mortality on GB cod and allow for the promotion of GB cod stock rebuilding. These measures apply to both private and for-hire recreational vessels, and would remain in place unless modified. Table 14 shows the final GB cod recreational measures, which are approved as proposed.

**Table 14 – Georges Bank Cod Recreational Management Measures**

Minimum Size	22 in (55.9 cm)
Maximum Size	28 in (71.1 cm)
Possession Limit	5 fish per person per day
Closed Season	May 1 through July 31
Open Season	August 1 through April 30

Framework 57 established a regulatory process for the Regional Administrator to adjust recreational measures to prevent the recreational catch target from being exceeded for fishing years 2018 and 2019. Framework 63 modifies the process to apply to fishing years 2023 and 2024, to prevent future overages of the GB cod ACL. After consultation with the Council, the Regional Administrator would make any changes to recreational measures consistent with the Administrative Procedure Act.

## **Default Specifications Process**

Framework 63 modifies the default specifications process to increase the default limits to 75 percent of the previous year's catch limit, and extend the effective date through October 31 of that fishing year, or when replaced by new catch limits, whichever happens first. As previously implemented by Framework 53, if the default value is higher than the Council's recommended catch limit for the upcoming fishing year, the default catch limits



will be equal to the Council's recommended catch limits for the applicable stocks for the upcoming fishing year.

### **Regulatory Corrections under Secretarial Authority**

Under our authority to carry out fishery management plans described in section 305(d) of the Magnuson-Stevens Act, in this action the Regional Administrator reinstates the regulation implementing the possession limit for the northern red hake stock, specified at § 648.86(d)(1)(vi), that was inadvertently deleted from the regulations through a prior rulemaking. The possession limit for the northern red hake stock remains unchanged at 3,000 lb (1,361 kg).

This action also corrects the allocation of the sub-ACL for GB haddock catch by the midwater trawl Atlantic herring fishery, specified at § 648.90(a)(4)(iii)(D)(I). In Framework 59, the Council recommended and the Regional Administrator approved increasing the allocation from 1.5 percent to 2 percent. The change was implemented through the specifications approved in Framework 59, but was unintentionally omitted from the regulatory text. Notice and opportunity for comment was provided in Framework 59, so adding this provision in this final rule is an administrative correction made under our administrative authority at section 305(d) of the Magnuson-Stevens Act.

### **Comments and Responses on Measures Proposed in the Framework 63 Proposed Rule**

During the comment period, we received 20 comments on the Framework 63 proposed rule from Conservation Law Foundation (CLF), the Rhode Island Party and Charter Boat Association (RIPCBA), and 18 members of the public. We also received one comment from the New Bedford Port Authority that was sent before the proposed rule had published, and one comment from Northeast Seafood Coalition (NSC), which was submitted after the comment period had closed.

#### *General Comments on Framework 63*

*Comment 1:* A member of the public commented in support of the measures proposed by Framework 63, highlighting the adverse environmental effects of overfishing on ecosystems, fish populations, and coastal economies.

*Response 1:* We agree, and are approving the measures as proposed.

*Comments Regarding Fishing Years 2022 and 2023 Shared U.S./Canada Quotas*

*Comment 2:* RIPCBA commented in support of the proposed quotas. However, it suggested that the TMGC process should be reevaluated in future years, to make sure that the U.S. is getting a fair portion of the shared stocks. RIPCBA stated that eastern GB cod is “entirely commercial,” but that the resulting quotas can affect recreational management for U.S. vessels. NSC expressed concern that the Transboundary Resources Assessment Committee (TRAC) and TMGC process occur prior to the U.S. GB cod assessment update. It states that there are inconsistencies between the Data Limited Methods Tool (DLMtool) used for the TRAC’s assessment of eastern GB cod and the PlanBSmooth approach used to assess the bank-wide GB cod stock, which can lead to conflicting catch advice recommendations. NSC advised that the Agency should work with the Council to seek a solution. One member of the public commented on the shared U.S./Canada quota for eastern GB cod and haddock, stating that American commercial fishing vessels in the area would be shorted a large amount of fish.

*Response 2:* The transboundary management of the shared eastern GB cod stock is based on an international understanding between the U.S. and Canada, which results in a process that has been agreed on by the two countries. As such, the timing of the international TRAC and TMGC cycle is not easily adjusted to account for the anticipated timing of a domestic assessment. We and the U.S. delegation to the TMGC understand the mismatch that can occur as a result of the separate assessments of GB and eastern GB cod, and make every effort at TMGC meetings to select shared quotas that accommodate the needs of the U.S. fishery.

In its comment, NSC misinterprets the purpose of the DLMtool. The DLMtool is not an assessment model, but rather is a method of calculating catch based on the available assessment information for eastern GB cod. The TRAC developed the DLMtool based on the direction of the TMGC to reduce the TMGC delegations' debate about uncertainty in the cod assessments that made it difficult for the two countries to agree on catch allocations. As part of the DLMtool, the TMGC chose two management objectives, which the TRAC used in 2021 to provide a range of catch advice from 520 mt to 650 mt, with the recommendation that the TMGC select a shared Total Allowable Catch (TAC) that fell in the lower part of this range. The TMGC continues to debate the appropriate level of catch for eastern GB cod and has noted that the DLMtool is a temporary solution to selecting catch allocations until a new assessment for GB cod can be completed. The U.S. and Canada are working to identify future plans to assess the shared cod resource.

Regarding the allocation shares of each shared quota, the member of the public is incorrect that the current agreement entitles the U.S. to 35 percent of the total “cod and haddock” quota on eastern GB. The current allocation shares entitle the U.S. to 28 percent of the shared eastern GB cod quota and 47 percent of the shared eastern GB haddock quota. The process by which these allocation shares are determined is formulaic and takes into account historical utilization and shifts in resource distribution; it is not subject to negotiation by the TMGC and does not represent a new proposal on the part of the TMGC.

#### *Comments Regarding Catch Limits for Fishing Years 2022-2024*

*Comment 3:* RIPCBA commented in support of the quota setting and specifications as proposed in Framework 63.

*Response 3:* We agree and are approving the specifications as proposed, as explained in the preamble.

*Comment 4:* CLF urged NMFS to disapprove the 2022-2024 catch limits for GOM cod and to remand them back to the Council. It argued that the GOM cod ABCs and ACLs

are unchanged from Framework 59, and that the SSC should have used “Option C” of the groundfish ABC control rule, which would restrict catch to incidental bycatch only.

*Response 4:* We disagree. The Council’s reliance on the SSC’s consideration and use of the ABC Control Rule is consistent with the FMP and the Magnuson-Stevens Act. The SSC considered the use of Option C of the ABC Control Rule for setting the GOM cod ABC. The Groundfish Plan Development Team (PDT) provided the SSC with recent discard information, but also indicated that the values of discards would not represent all incidental, non-target catch under the current operating conditions of the fishery. Most notably, groundfish sectors are required to retain all legal-sized cod, even if not targeting that species, and therefore this catch is not counted in the discards. The SSC determined that the available bycatch data were insufficient to inform setting an ABC, and instead based their recommendation on the projections of the two models used by the assessment, which is the best available science.

In April 2022, the Council initiated Framework 65, which includes the development of a revised rebuilding plan for GOM cod. Additionally, the ongoing work on the Atlantic cod stock structure that is currently being undertaken by the Research Track Working Group, could provide a better basis for catch limits and management for Atlantic cod. However, the ABCs set by this action comply with the Magnuson-Stevens Act and the current rebuilding plan for GOM cod. Last, if we were to disapprove the GOM cod ABCs and ACLs, the 2022 ABC for this stock would remain at 552 mt, as implemented by Framework 59, one metric ton higher than the ABC implemented in this action (551 mt). As noted above, there also would be no additional information to support a different ABC based on an unsupportable estimation of incidental bycatch.

*Comment 5:* CLF also urged NMFS to disapprove the 2022 GB cod catch limit and remand it back to the Council. It argued that the proposed rule did not explain how NMFS is adequately accounting for scientific uncertainty without a buffer between OFL and ABC. It

further argued that NMFS cannot justify the lack of scientific uncertainty buffer based on a constant catch approach, as it did in Framework 59, because Framework 63 includes only a one-year allocation for GB cod. CLF also stated that the empirical approach (*i.e.* the PlanBsmooth used in the assessment) is the best approach available without an analytical assessment.

*Response 5:* We disagree that we should disapprove the proposed ABC for GB cod. However, we agree that the PlanBsmooth approach is the best scientific information available on which to base catch advice for GB cod, and are therefore approving the 2022 ABC for GB cod, as proposed. If we were to disapprove this limit, the result would be that the 2022 ABC for this stock would remain at the level set by Framework 61 (1,308 mt), which is significantly higher than 343 mt, as implemented by this action.

During the development of Framework 59, the SSC decided to use the catch advice coming out of the PlanBsmooth approach to recommend an ABC, rather than an indeterminate OFL, to remain consistent with other stocks that were using an empirical approach for catch advice to prevent overfishing. National Standard guidelines provide for SSC ABC recommendations that differ from the usual ABC control rule calculations, based on factors such as data uncertainty, recruitment variability, declining trends in population variables, and other factors. The SSC has explained this approach and has remained consistent with this decision in Framework 63. While the SSC recommended applying the catch advice for three years of specifications (fishing years 2022-2024), the Council only included an ABC for 2022 in Framework 63. The SSC will need to recommend, and the Council will need to propose, a GB cod ABC for fishing year 2023 and beyond in Framework 65, and we intend to work with the Council and SSC to ensure that the ABC is based on the best scientific information available. Limiting the specification to one year provides an opportunity for consideration of updated information for the following two fishing years and thus could reduce potential uncertainty for those years compared to

implementing on data available this year. If the Council does not select an ABC for GB cod for 2023, or if we disapprove it in Framework 65, the ABC for GB cod would drop to zero in 2023.

In Framework 59, it was appropriate to set a constant ABC for all three years of specifications (fishing years 2020-2022) based on the results of the PlanBsmooth approach to account for scientific uncertainty. For Framework 63, the Council's decision to include an ABC for only one year (2022) does not increase the scientific uncertainty of using the results of the PlanBsmooth to set the ABC, compared to setting it for all three years. The extremely low one-year specification in this action is expected to increase the probability of the stock rebuilding, while addressing the poor condition of the GB cod resource for the next year. It also allows the SSC, Council, and NMFS to adopt conservation measures for 2023 in Framework 65, where scientific uncertainty would again be considered.

*Comment 6:* New Bedford Port Authority and NSC both raised concerns with the reduction to the GB cod ABC. NSC questioned the use of imputed data in the PlanBsmooth empirical assessment to replace the year of survey data missing due to the COVID-19 health crisis. NSC asserted that there should have been a peer reviewed deliberation prior to the assessment to determine how to deal with the missing survey data. Similarly, New Bedford Port Authority raised a concern that there should have been a review process to examine the implications of missing survey data. NSC stated that if past years' catch is not close to the quota, the resulting catch advice from the PlanBsmooth approach can have large changes. NSC also stated that the survey strata data used has been limited to a smaller portion of the larger GB cod stock area. Last, NSC argued that the SSC did not have all relevant information, including socioeconomic information and the final catch information from the 2020 fishing year. New Bedford Port Authority also raised the same concern as NSC about the final catch of GB cod not being available until after the SSC met.

*Response 6:* The assessment Peer Review Panel determined that the PlanBsmooth is the best available science for determining catch advice and recommended it for use by the SSC. The GB cod assessment went through peer review in September 2021, and the panel considered using imputed values to replace the missing survey data; however, the panel ultimately decided to approve the PlanBsmooth without using an imputed value. At its October 25, 2021, meeting, the SSC recommended adjusting the catch advice that had come out of the PlanBsmooth to incorporate an imputed value, resulting in an ABC that was 25 mt higher than the catch advice provided by the assessment. The SSC raised the concern that the PlanBsmooth approach has the potential to “chase noise in the survey index, particularly for a stock at low abundance.” In other words, there is a potential for large fluctuations in the catch advice that comes out of the PlanBsmooth approach. However, the SSC did not find that this concern justified recommending an alternative approach to calculating catch advice, and endorsed the continued use of the PlanBsmooth approach for setting the GB cod ABC.

The SSC had an extensive discussion of how the Council Risk Policy could be used to inform a different recommendation for the GB cod ABC, and the SSC report references economic analysis and information presented by the PDT. While the SSC did recommend that, in the future, the PDT provide additional socioeconomic information, it was clear that the SSC was aware, at least qualitatively, of the potential economic impact of the decreased quota. The SSC did not postpone their recommendation in order to obtain additional information, and a majority of the SSC supported the ABC recommendation that was made to the Council and included as part of Framework 63. Fishing year final catch reports have not historically been provided to the SSC for consideration as part of the process for setting ABCs, although the PDT does provide the inseason catch data that is available at the time of the SSC meeting. Requiring the inclusion of such reports could delay implementation of necessary specifications and adversely impact fisheries and fishing communities. The GB cod assessment that was used by the SSC to recommend ABCs was based on commercial

fishery catch data through calendar year 2020 and survey data through spring of 2021, and would not have been updated to reflect the 2020 fishing year catch report that is produced by NMFS in the fall of 2021 for purposes of catch accounting. The Council was aware of NSC's concerns regarding the availability of this information to the SSC, and voted to submit Framework 63 to NMFS with the SSC's recommended ABC for GB cod to support timely implementation of these specifications, including a closed season for the recreational fishery that was intended to begin on May 1, 2022. Waiting for additional information could have resulted in an even greater delay of these specifications and increased adverse impacts from a further delay.

*Comments Regarding Recreational Measures for Georges Bank Cod*

*Comment 7:* RIPCBA commented in support of the proposed changes to recreational measures for GB cod for fishing year 2022.

*Response 7:* We agree with the RIPCBA's support for the 2022 recreational measures and are approving the changes as proposed.

*Comment 8:* Seventeen members of the public commented on the proposed GB cod recreational measures. While some supported parts of the measures, most expressed concern about or objected to some or all of the proposed measures, including the closed recreational season for GB cod, the reduced possession limit, the increased minimum size, and the implementation of a maximum size without an allowance of a trophy fish (*i.e.*, a single fish over the maximum size limit). The commenters raised concerns about other stocks that are being restricted, limiting fishing options, and about economic damage to ancillary services, such as marinas and bait shops. Several stated that they get their food through recreational fishing, and raised concerns about the increased cost of fuel to go fishing. Some commenters blamed the commercial fishery for the state of the GB cod stock, and argued that recreational fishermen were being punished instead. A few commenters argued that a winter closure



would be more useful for protecting spawning, or that it would be less restrictive for recreational fishermen targeting cod.

*Response 8:* The goal of the slot limit, reduction in possession limit, and recreational closed season for GB cod was to create a suite of measures to achieve a reduction in mortality of GB cod, given the overall reduction in the U.S. ABC and the revised recreational catch target. Because the recreational measures were developed and analyzed as a suite, rather than individually, we cannot be assured that alternative measures, or a subset of the proposed measures, would achieve the necessary reduction in GB cod catch. As some commenters stated, it is rare for a recreational fisherman to catch a large cod above the proposed maximum size limit, and so allowing a trophy fish would likely negate the intended impact of the maximum size limit. While a winter closure could provide spawning protections, the goal of the summer closure for GB cod is to reduce the overall mortality of GB cod. Therefore, closing the GB cod recreational fishery in the winter would not be as effective for reducing overall catch because recreational fishing is not as prominent during that period in comparison to the summer. Thus, we approve the Council's recommended suite of measures in full. Recreational fishermen can continue to fish in the GB cod stock area for other species during the May through July closure. Some alternative options may be found <http://www.fishwatch.gov>.

*Comment 9:* Five members of the public commented on cod stock structure in the region, stating that the cod caught off Rhode Island are not the same as GB cod.

*Response 9:* Under the Northeast Multispecies FMP, we manage Atlantic cod as two stocks: GOM and GB. A working group is currently developing improved stock assessments for two to five stocks of Atlantic cod. However, this work is not complete, and therefore we are limited to managing cod stocks as they are defined in the FMP. The quotas for GB cod that are approved in this rule are based on the most recent assessment for GB cod, which includes cod found off Rhode Island as part of the GB cod stock.

*Comment 10:* NSC commented in support of modifications to the recreational catch target to reflect the reduction to the ABC, and referenced Option 3, which was one of the potential options for a catch target developed by the Groundfish PDT. NSC questioned how the catch target in Option 3 complies with National Standard 8 of the Magnuson-Stevens Act.

*Response 10:* Option 3 for the recreational catch target (71 mt) was developed by the PDT. However, it was not the preferred alternative recommended by the Council or considered in the proposed rule. The Council considered several catch targets, and voted to recommend a recreational catch target of 75 mt (Option 4). The EA provides the rationale that this catch target allows a portion of the total ACL to account for recreational catch, while maximizing the quota available to the commercial fishery. The Council's selection of the 75-mt catch target is consistent with National Standard 8, which requires the consideration of the importance of fishery resources consistent with the conservation requirement of the Magnuson-Stevens Act. The Magnuson-Stevens Act recognizes the importance of recreational fishing and requires consideration of its importance to the nation and its impacts on fishing communities. National Standard 8 guidance specifically recognizes recreational fishing interests within fishing communities ("[a] fishing community is a social or economic group whose members reside in a specific location and share a common dependency on commercial, recreational, or subsistence fishing or on directly related fisheries-dependent services and industries (for example, boatyards, ice suppliers, tackle shops"). That, along with the goal of the FMP to maintain a directed commercial and recreational fishery for Northeast multispecies, is achieved by the Council's selection of a catch target that allows the commercial and recreational fisheries to continue to operate.

*Comment 11:* NSC commented that it supports renewing the Regional Administrator's exercise of authority to adjust recreational measures to prevent the catch target from being exceeded.

*Response 11:* We agree and approve the Regional Administrator's exercising authority consistent with these regulations for fishing years 2023 and 2024, if necessary to carry out the FMP. Any changes would be made in consultation with the Council.

*Comments Regarding Default Specifications*

*Comment 12:* NSC commented in support of the modifications to the default specifications process, noted that operating under default specifications is not preferred, and urged NMFS to implement newly proposed regulations quickly.

*Response 12:* We agree and approve this default specifications modification. The timing of a rule's publication and implementation depends on several factors, including when the Council takes final action, when the Council submits the action to NMFS for consideration, and the legal requirements of the rulemaking process. We continue to work with the Council to ensure that it submits the action to us with enough time for us to satisfy our regulatory requirements, prepare and publish the proposed rule, provide time for public comment, consider and respond to the comments received, and prepare, publish, and implement the final rule.

*Comment 13:* RIPCBA provided some recommendations for fishing years 2023 and 2024, when the Regional Administrator may adjust the recreational measures for GB cod. Specifically, the RIPCBA recommended removing the maximum size limit, and having the minimum size match the GOM cod recreational size. It also recommended considering changing the summer (May-July) closure to a month or combination of months during January through April.

*Response 13:* Any changes made by the Regional Administrator for fishing year 2023 consistent with these regulations will be based on the best available information and made in consultation with the Council.

**Changes from the Proposed Rule**

The proposed rule included sector and common pool sub-ACLs based on fishing year 2022 PSCs and preliminary fishing year 2022 sector rosters, but did not include the PSCs and ACEs allocated to each sector. This final rule updates these sub-ACLs to reflect final fishing year 2022 sector rosters and includes the PSCs and ACEs at the sector level.

This final rule includes a correction, under our authority at 305(d), to the regulatory text at § 648.90(a)(4)(iii)(D)(*I*) regarding the increase of the midwater trawl Atlantic herring fishery's 1.5 percent sub-ACL of the GB haddock ACL to 2 percent. This correction was not included in the proposed rule. It was subject to notice and public comment in Framework 59 (Proposed rule: 85 FR 32347; May 29, 2020; Final rule: 85 FR 45794; July 30, 2020), but was inadvertently omitted from the regulations.

### **Classification**

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the Northeast Multispecies FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866. This final rule does not contain policies with federalism or takings implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

The Assistant Administrator for Fisheries finds that there is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delayed effectiveness of this action. This action relies on the best available science to set 2022 catch limits for groundfish stocks and adopts several other measures to improve the management of the groundfish fishery. This final rule must be implemented as soon as possible to capture fully the conservation and economic benefits of Framework 63 and avoid adverse economic impacts.

The development of Framework 63 began in June 2021. While the Council took final action on the Framework 63 measures in December 2021, the framework was not formally submitted to NMFS until March 28, 2022. Given the timing of the Council process and

submission, the earliest we were able to publish a proposed rule for Framework 63 was on April 20, 2022.

A delay in implementation of this rule increases negative economic effects for regulated entities. The eastern portions of the GB cod and haddock stocks, jointly managed with Canada, did not have 2022 quotas set by a previous framework. A separate action implemented a default quota (35 percent of the 2021 quota) for eastern GB cod and haddock that will be in effect only through July 31, 2022, unless we implement Framework 63 before that date. After July 31, the default quotas expire, at which point vessels would be prohibited from fishing in the Eastern U.S./Canada Area until Framework 63 is effective. The default quotas are constraining the fishery in the Eastern U.S./Canada Area. The majority of fishing in that region occurs during summer primarily due to the seasonal geographic distribution of the stocks. Providing timely access to these stocks is also a potential safety issue. Vessels fish in the summer in the Eastern U.S./Canada Area (approximately 150-200 miles offshore) to avoid extremely dangerous weather in the winter, spring, and fall.

There are also biological impacts associated with a delay in implementation. The GB cod U.S. ABC for fishing year 2022 was previously set by Framework 61 at 1,308 mt, and groundfish sectors were allocated quota on May 1, 2022, based on this catch limit. Based on the 2021 management track assessment, this action reduces the GB cod U.S. ABC for fishing year 2022 to 343 mt. A delay in effectiveness of this action could result in the commercial groundfish fishery overharvesting the GB cod stock, because the higher allocation the commercial fishery received at the beginning of the fishing year could encourage greater fishing during the delay. Similarly, the changes to recreational measures for GB cod being implemented by this final rule (including the reduction in possession limit, the change in slot limit, and the implementation of a closed season) are substantial from those measures in place for fishing year 2021. This rule's recreational restrictions are intended to reduce mortality of GB cod to ensure limits on total catch are not exceeded. If the recreational

fishery contributes to an ACL overage in 2022, the commercial fishery will be required to pay back, pound-for-pound, any ACL overage in a following fishing year, which will have even greater adverse social and economic impacts on the fishery. Therefore, a delay would be contrary to the public interest and would undermine the intent of the rule.

The 30-day delay in implementation for this rule is unnecessary because this rule contains no new measures (*e.g.*, it does not require new nets or equipment) for which regulated entities need time to prepare or revise their current practices. Fishermen who are subject to this action expect and need timely implementation to avoid adverse economic impacts. This action is similar to the process used to set quotas every 1-2 years, approves all items as proposed, and was discussed at multiple noticed meetings where the public was provided opportunity to learn about the action, ask questions, and provide input into the development of the measures. Affected parties and other interested parties participated in this public process to develop this action and expect implementation as close to the beginning of the fishing year on May 1 as possible. A 30-day delay in implementing the portion of this action that changes the default specification percentage and duration is not necessary because the new default provisions will not affect the fishery until May 1, 2023, if at all.

Overall, a delay in implementation of this action would greatly diminish the benefits of these specifications and other approved measures. For these reasons, a 30-day delay in the effectiveness of this rule is impracticable and contrary to the public interest.

#### *Final Regulatory Flexibility Analysis*

Section 604 of the Regulatory Flexibility Act (RFA), 5 U.S.C. 604, requires Federal agencies to prepare a Final Regulatory Flexibility Analysis (FRFA) for each final rule. The FRFA describes the economic impact of this action on small entities. The FRFA includes a summary of significant issues raised by public comments, the analyses contained in Framework 63 and its accompanying Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (IRFA), the IRFA summary in the proposed

rule, as well as the summary provided below. A statement of the necessity for and for the objectives of this action are contained in Framework 63 and in the preamble to this final rule, and is not repeated here.

A Summary of the Significant Issues Raised by the Public in Response to the IRFA, a Summary of the Agency's Assessment of Such Issues, and a Statement of Any Changes Made in the Final Rule as a Result of Such Comments

We received several comments expressing concern about the economic impacts of this action and we have summarized the comments in the comments and responses section of this rule. None of these comments were directly related to the IRFA, or provided information that changed the conclusions of the IRFA. The Chief Counsel for the Office of Advocacy of the Small Business Administration (SBA) did not file any comments. We made no changes to the proposed rule measures.

Description and Estimate of the Number of Small Entities to Which the Rule Would Apply

The final rule impacts the recreational groundfish, Atlantic sea scallop, small mesh multispecies, Atlantic herring, and large-mesh non-groundfish fisheries. Individually-permitted vessels may hold permits for several fisheries, harvesting species of fish that are regulated by several different FMPs, even beyond those impacted by the proposed action. Furthermore, multiple-permitted vessels and/or permits may be owned by entities affiliated by stock ownership, common management, identity of interest, contractual relationships, or economic dependency. For the purposes of the RFA analysis, the ownership entities, not the individual vessels, are considered to be the regulated entities.

As of June 1, 2021, NMFS had issued 721 commercial limited-access groundfish permits associated with vessels (including those in confirmation of permit history, CPH), 649 party/charter groundfish permits, 705 limited access and general category Atlantic sea scallop permits, 734 small-mesh multispecies permits, 80 Atlantic herring permits, and 802 large-mesh non-groundfish permits (limited access summer flounder and scup permits). Therefore,

this action potentially regulates 3,691 permits. When accounting for overlaps between fisheries, this number falls to 2,126 permitted vessels. Each vessel may be individually owned or part of a larger corporate ownership structure, and for RFA purposes, it is the ownership entity that is ultimately regulated by the proposed action. Ownership entities are identified on June 1st of each year based on the list of all permit numbers, for the most recent complete calendar year, that have applied for any type of Greater Atlantic Federal fishing permit. The current ownership data set is based on calendar year 2020 permits and contains gross sales associated with those permits for calendar years 2018 through 2020.

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR § 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide. The determination as to whether the entity is large or small is based on the average annual revenue for the three years from 2018 through 2020. The Small Business Administration (SBA) has established size standards for all other major industry sectors in the U.S., including for-hire fishing (NAICS code 487210). These entities are classified as small businesses if combined annual receipts are not in excess of \$8.0 million for all its affiliated operations. As with commercial fishing businesses, the annual average of the three most recent years (2018-2020) is utilized in determining annual receipts for businesses primarily engaged in for-hire fishing.

Based on the ownership data, 1,696 distinct business entities hold at least one permit that the proposed action potentially regulates. All 1,696 business entities identified could be directly regulated by this proposed action. Of these 1,696 entities, 976 are commercial fishing entities, 281 are for-hire entities, and 439 did not have revenues (were inactive in 2020). Of the 976 commercial fishing entities, 967 are categorized as small entities and 9 are



categorized as large entities, per the NMFS guidelines. Furthermore, 579 of these commercial fishing entities held limited access groundfish permits, with 577 of these entities being classified as small businesses and 2 of these entities being classified as large businesses. All 281 for-hire entities are categorized as small businesses.

#### *Description of the Projected Reporting, Record-Keeping, and Other Compliance*

##### *Requirements of this Final Rule*

The action does not contain any new collection-of-information requirements under the Paperwork Reduction Act (PRA).

#### *Description of the Steps the Agency Has Taken to Minimize the Significant Economic Impact on Small Entities Consistent with the Stated Objectives of Applicable Statutes*

The economic impacts of each proposed measure are discussed in more detail in sections 6.5 and 7.12 of the Framework 63 Environmental Assessment and are not repeated here. For the updated groundfish specifications and adjustments to the GB cod recreational measures, the No Action alternative was the only other alternative considered by the Council. There are no significant alternatives that would minimize the economic impacts. The proposed action is predicted to generate \$73.3 million in gross revenues on the sector portion of the commercial groundfish trips, which is \$2.2 million less than No Action, but falls within the recent historical range. Small entities engaged in common pool groundfish fishing may be negatively impacted by the proposed action as well. Likewise, small entities engaged in the recreational groundfish fishery are also likely to be negatively impacted. These negative impacts for both commercial and recreational groundfish entities are driven primarily by a substantial decline in the ACL for GB cod for fishing year 2022. While this decline is expected to result in short-term negative impacts, decreased GB cod catch in fishing year 2022 is expected to yield long-term positive impacts through stock rebuilding.

#### **Small Entity Compliance Guide**

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency will publish one or more guides to assist small entities in complying with the rule, and will designate such publications as “small entity compliance guides.” The agency will explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a bulletin to permit holders that also serves as a small entity compliance guide was prepared. This final rule and the guide (*i.e.* bulletin) will be sent via email to the Greater Atlantic Regional Fisheries Office Northeast multispecies fishery email list, as well as the email lists for scallop and herring fisheries, which receive an allocation of some groundfish stocks. The final rule and the guide are available from NMFS at the following website:

*<https://www.fisheries.noaa.gov/management-plan/northeast-multispecies-management-plan>.*

Hard copies of the guide and this final rule will be available upon request (see

**ADDRESSES).**

**List of Subjects in 50 CFR Part 648**

Fisheries, Fishing, Recordkeeping, and reporting requirements.

Dated: July 11, 2022.

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Kimberly Damon-Randall,

Acting Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons stated in the preamble, 50 CFR part 648 is amended as follows:

**PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES**

1. The authority citation for part 648 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*

2. In § 648.14, revise paragraph (k)(16)(v) to read as follows:

**§ 648.14 Prohibitions.**

\* \* \* \* \*

(k) \* \* \*

(16) \* \* \*

(v) *Size limits.* If fishing under the recreational or charter/party regulations, possess regulated species or ocean pout that are smaller than the minimum fish sizes or larger than maximum fish sizes specified in § 648.89(b)(1) and (b)(3).

\* \* \* \* \*

3. In § 648.86 add paragraph (d)(1)(vi) to read as follows:

**§ 648.86 NE Multispecies possession restrictions.**

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(vi) *Possession of northern red hake.* Vessels participating in the small-mesh multispecies fishery and fishing on the northern red hake stock, defined as statistical areas 464-465, 467, 511-515, 521-522, and 561, may possess and land no more than 3,000 lb 91,361 kg) of red hake when fishing in the GOM/GB Exemption area, as described in § 648.80(a)(17).

\* \* \* \* \*

4. Amend § 648.89 by revising paragraph (b) paragraph heading, paragraphs (b)(1), Table 2 to paragraph (c), Table 3 to paragraph (c), and (g), to read as follows:

**§ 648.89 Recreational and charter/party vessel restrictions.**

\* \* \* \* \*

(b) *Recreational minimum and maximum fish sizes*--(1) *Minimum and maximum fish sizes*. Unless further restricted under this section, persons aboard charter or party boats permitted under this part and not fishing under the NE multispecies DAS program or under the restrictions and conditions of an approved sector operations plan, and private recreational fishing vessels may not possess fish in or from the EEZ that are smaller than the minimum fish sizes or larger than the maximum fish sizes, measured in total length, as follows:

Table 1 to Paragraph (b)(1)

Species	Minimum size		Maximum size	
	Inches	cm	Inches	cm
Cod:				
Inside GOM Regulated Mesh Area <sup>1</sup>	21	53.3	N/A	N/A
Outside GOM Regulated Mesh Area <sup>1</sup>	22	55.9	28	71.1
Haddock:				
Inside GOM Regulated Mesh Area <sup>1</sup>	17	43.2	N/A	N/A
Outside GOM Regulated Mesh Area <sup>1</sup>	18	45.7	N/A	N/A
Pollock	19	48.3	N/A	N/A
Witch Flounder (gray sole)	14	35.6	N/A	N/A
Yellowtail Flounder	13	33.0	N/A	N/A
American Plaice (dab)	14	35.6	N/A	N/A
Atlantic Halibut	41	104.1	N/A	N/A
Winter Flounder (black back)	12	30.5	N/A	N/A
Redfish	9	22.9	N/A	N/A

<sup>1</sup> GOM Regulated Mesh Area specified in § 648.80(a).

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(i) \* \* \*

Table 2 to Paragraph (c)(i)

Stock	Open season	Possession limit	Closed season
GB Cod	August 1-April 30	5	May 1-July 31
GOM Cod	September 15-30, April 1-14	1	April 15-September 14, October 1-March 31
GB Haddock	All Year	Unlimited	N/A

<b>Stock</b>	<b>Open season</b>	<b>Possession limit</b>	<b>Closed season</b>
GOM Haddock	May 1-February 28 (or 29), April 1-30	15	March 1-March 31
GB Yellowtail Flounder	All Year	Unlimited	N/A
SNE/MA Yellowtail Flounder	All Year	Unlimited	N/A
CC/GOM Yellowtail Flounder	All Year	Unlimited	N/A
American Plaice	All Year	Unlimited	N/A
Witch Flounder	All Year	Unlimited	N/A
GB Winter Flounder	All Year	Unlimited	N/A
GOM Winter Flounder	All Year	Unlimited	N/A
SNE/MA Winter Flounder	All Year	Unlimited	N/A
Redfish	All Year	Unlimited	N/A
White Hake	All Year	Unlimited	N/A
Pollock	All Year	Unlimited	N/A
N Windowpane Flounder	Closed	No retention	All Year
S Windowpane Flounder	Closed	No retention	All Year
Ocean Pout	Closed	No retention	All Year
Atlantic Halibut	See paragraph (c)(3) of this section		
Atlantic Wolffish	Closed	No retention	All Year

\* \* \* \* \*

(2) \* \* \*

Table 3 to Paragraph (c)(2)

<b>Species</b>	<b>Open season</b>	<b>Possession limit</b>	<b>Closed season</b>
GB Cod	August 1-April 30	5	May 1-July 31
GOM Cod	September 8-October 7, April 1-14	1	April 15-September 7, October 8-March 31
GB Haddock	All Year	Unlimited	N/A
GOM Haddock	May 1-February 28 (or 29), April 1-30	15	March 1-March 31
GB Yellowtail Flounder	All Year	Unlimited	N/A
SNE/MA Yellowtail Flounder	All Year	Unlimited	N/A
CC/GOM Yellowtail Flounder	All Year	Unlimited	N/A

Species	Open season	Possession limit	Closed season
American Plaice	All Year	Unlimited	N/A
Witch Flounder	All Year	Unlimited	N/A
GB Winter Flounder	All Year	Unlimited	N/A
GOM Winter Flounder	All Year	Unlimited	N/A
SNE/MA Winter Flounder	All Year	Unlimited	N/A
Redfish	All Year	Unlimited	N/A
White Hake	All Year	Unlimited	N/A
Pollock	All Year	Unlimited	N/A
N Windowpane Flounder	Closed	No retention	All Year
S Windowpane Flounder	Closed	No retention	All Year
Ocean Pout	Closed	No retention	All Year
Atlantic Halibut	See Paragraph (c)(3) of this section		
Atlantic Wolffish	Closed	No retention	All Year

\* \* \* \* \*

(g) *Regional Administrator authority for Georges Bank cod recreational measures.*

For the 2023 and 2024 fishing years, the Regional Administrator, after consultation with the NEFMC, may adjust recreational measures for Georges Bank cod to prevent the recreational fishery from exceeding the annual catch target as determined by the NEFMC. Appropriate measures, including adjustments to fishing seasons, minimum fish sizes, or possession limits, may be implemented in a manner consistent with the Administrative Procedure Act, with the final measures published in the **Federal Register** prior to the start of the fishing year when possible. Separate measures may be implemented for the private and charter/party components of the recreational fishery. Measures in place in fishing year 2024 will be in effect beginning in fishing year 2025, and will remain in effect until they are changed by a Framework Adjustment or Amendment to the FMP, or through an emergency action.

\* \* \* \* \*

5. In § 648.90, revise paragraph (a)(3)(i), paragraph (a)(4)(i) introductory text, and paragraph (a)(4)(iii)(D)(I) to read as follows:

**§ 648.90 NE multispecies assessment, framework procedures and specifications, and flexible area action system.**

\* \* \* \* \*

(a) \* \* \*

(3) \* \* \* (i) Unless otherwise specified in this paragraph (a)(3), if final specifications are not published in the **Federal Register** for the start of a fishing year, as outlined in paragraph (a)(4) of this section, specifications for that fishing year shall be set at 75 percent of the previous year's specifications for each NE multispecies stock, including the U.S./Canada shared resources, for the period of time beginning on May 1 and ending on October 31, unless superseded by the final rule implementing the current year's specifications.

\* \* \* \* \*

(4) \* \* \* (i) *ABC/ACL recommendations.* As described in this paragraph (a)(4), with the exception of stocks managed by the Understanding, the PDT shall develop recommendations for setting an ABC, ACL, and OFL for each NE multispecies stock for each of the next 3 years as part of the biennial review process specified in paragraph (a)(2) of this section. ACLs can also be specified based upon updated information in the annual SAFE report, as described in paragraph (a)(1) of this section, and other available information as part of a specification package, as described in paragraph (a)(6) of this section. For NE multispecies stocks or stock components managed under both the NE Multispecies FMP and the Understanding, the PDT shall develop recommendations for ABCs, ACLs, and OFLs for the pertinent stock or stock components for each of the next 2 years as part of the annual process described in this paragraph (a)(4) and § 648.85(a)(2).

\* \* \* \* \*

(iii) \* \* \*

(D) \* \* \*

(1) *Sub-ACL values.* The midwater trawl Atlantic herring fishery will be allocated sub-ACLs equal to 1 percent of the GOM haddock ABC, and 2 percent of the GB haddock ABC (U.S. share only), pursuant to the restrictions in § 648.86(a)(3). The sub-ACLs will be set using the process for specifying ABCs and ACLs described in paragraph (a)(4) of this section. For the purposes of these sub-ACLs, the midwater trawl Atlantic herring fishery includes vessels issued a Federal Atlantic herring permit and fishing with midwater trawl gear in Management Areas 1A, 1B, and/or 3, as defined in § 648.200(f)(1) and (3).

\* \* \* \* \*

[FR Doc. 2022-15065 Filed: 7/14/2022 8:45 am; Publication Date: 7/15/2022]